

**Remarks**

This is a complete response to the Office Action mailed 8/3/2006. The amendments and accompanying remarks are proper, do not introduce new matter, are not narrowing of claim scope in view of a rejection over a cited reference, and place the application in proper condition for allowance of all pending claims.

**Rejection Under Section 102**

Claims 1-4, 8, 9, 16, 17, 21, 25, 27-29, 33, and 34 stand rejected as being anticipated by Menon '984.

Independent claims 1, 16, 21, and 25 as previously presented recited the following:

*an array of equal capacity data storage units, each defined  
in terms of a plurality of separate storage domains against  
a plurality of data storage blocks*

The Examiner read the *data storage units* of these claims onto the individual data blocks of the array in FIG. 2 of Menon '984. Applicant asserts that is an erroneous claim construction because the claim language as previously presented requires that each data storage unit be defined as a plurality of data storage blocks of separate storage domains. However, solely in order to more particularly point out and distinctly claim the present embodiments Applicant has amended these claims to recite:

*an array of equal capacity data storage units, each data  
storage unit defined as a grouped plurality of data storage  
blocks from separate storage domains*

Support that the claim term *data storage units* means more than one data storage block is found throughout the specification, such as but not limited to:

The data blocks in a row of the capacity grid that belong to one group (four data blocks in this example) are termed a

data storage unit (DSU) and as such ten DSUs are depicted in capacity grid 410.  
(specification, paragraph [0046], emphasis added)

Claim 1 as previously presented also recited:

*allocating each of the data storage units for entirely storing either user data or fault tolerance data*

Because the Examiner construed the *data storage units* onto the individual data storage blocks of Menon '984, he further construed each data storage block as entirely storing either user data or fault tolerance data. However, in the present embodiments as claimed, each data storage unit is a plurality of data storage blocks from separate domains, and each data storage unit is also allocated to entirely store either user data or fault tolerance data. Applicant has amended claim 1 solely in order to more particularly point out and distinctly claim the present embodiments with this language:

*allocating each of the data storage units for storing either user data entirely or fault tolerance entirely*

Menon '984 neither identically discloses nor teaches/suggests defining grouped pluralities of data storage blocks from separate domains into data storage units, and allocating each data storage unit for storing either user data entirely or fault tolerance entirely as recited by the language of claim 1. As such, Menon '984 cannot sustain the 102 rejection of claim 1. Reconsideration and withdrawal of the present rejection of claim 1 and the claims depending therefrom are respectfully requested.

Claim 16, similar to claim 1, as previously presented recited:

*wherein each data storage unit is individually allocated for entirely storing either user data or fault tolerance data.*

For the same reason as in claim 1, Applicant has amended claim 16 solely in order to more particularly point out and distinctly claim:

*wherein each data storage unit is individually allocated for storing either user data entirely or fault tolerance data entirely.*

Menon '984 neither identically discloses nor teaches/suggests defining grouped pluralities of data storage blocks from separate domains into data storage units, and allocating each data storage unit for storing either user data entirely or fault tolerance entirely as recited by the language of claim 16. As such, Menon '984 cannot sustain the 102 rejection of claim 16. Reconsideration and withdrawal of the present rejection of claim 16 and the claims depending therefrom are respectfully requested.

Menon '984 also neither identically discloses nor teaches/suggests defining grouped pluralities of data storage blocks from separate domains into data storage units, and a data structure comprising a pointer used in relation to the number of rows of data storage units to define the base address of each domain as recited by the language of claim 21. As such, Menon '984 cannot sustain the 102 rejection of claim 21. Reconsideration and withdrawal of the present rejection of claim 21 and the claims depending therefrom are respectfully requested.

Menon '984 also neither identically discloses nor teaches/suggests defining grouped pluralities of data storage blocks from separate domains into data storage units, and a data storage unit pointer to determine a base address of the array as recited by the language of claim 25. As such, Menon '984 cannot sustain the 102 rejection of claim 25. Reconsideration and withdrawal of the present rejection of claim 25 and the claims depending therefrom are respectfully requested.

Rejection Under Section 103

Claims 13, 14, 20, and 32 stand rejected as being unpatentable over Menon '984 in view of Ulrich '792. However, these claims are allowable as depending from an allowable independent claim, for reasons above, and providing additional limitations thereto.

Reconsideration and withdrawal of the present rejection of these claims are respectfully requested.

Claims 18, 19, 30, and 31 stand rejected as being unpatentable over Menon '984. As discussed above, however, Menon '984 cannot sustain a *prima facie* case of obviousness of claim 18 because it does not teach or suggest all its recited features, which include at least the following:

*defining an array of equal capacity data storage units, each data storage unit defined as a grouped plurality of data storage blocks from separate storage domains;*  
*allocating each of the data storage units for storing either user data entirely or fault tolerance data entirely in accordance with a selected first storage format....*

Also, in rejecting claim 18 the Examiner has stated in the record that reconfiguring an array having data storage units defined by respective pluralities of data storage blocks was common practice at the time of the present invention. However, the Examiner's contention is not substantiated by evidence in the record, and must be therefore entirely based on the Examiner's personal knowledge. In accordance with 37 CFR 1.104(d)(2), Applicant respectfully requests an affidavit from the Examiner which shall then be subject to contradiction by Applicant, or otherwise requests that the Examiner cite a reference substantiating his contention.

Reconsideration and withdrawal of the present rejection of claim 18 and the claims depending therefrom are respectfully requested.

Claims 30 and 31 are allowable as depending from an allowable independent claim, for reasons above, and providing additional limitations thereto. Also, in rejecting claim 30 the Examiner has stated in the record that it would have been obvious to modify the array of Menon '984 to arrange the data storage blocks into a row without a parity data block. However, the Examiner's contention is not substantiated by evidence in the record, and must be therefore entirely based on the Examiner's personal knowledge. In accordance with 37 CFR 1.104(d)(2), Applicant respectfully requests an affidavit from the Examiner which shall then be subject to contradiction by Applicant, or otherwise requests that the Examiner cite a reference substantiating his contention. Reconsideration and withdrawal of the present rejection of these claims are respectfully requested.

**Conclusion**

The Applicant respectfully requests that the Examiner enter the above amendments and allow all of the pending claims.

Applicant has also requested a telephone interview to discuss any unresolved issues after the Examiner considers this response. The interview is necessary because the issues preventing this case from passing to allowance are clearly related to claim language semantics, not novelty or obviousness. Because this case has been granted special status, Applicant believes an interview is appropriate to work out any remaining semantics issues so as to expedite issuance of Applicant's valuable patent rights.

The Examiner is invited to contact the below signed Attorney should any questions arise concerning this response.

Respectfully submitted,

By: 

Mitchell K. McCarthy, Registration No. 38,794  
Randall K. McCarthy, Registration No. 39,297  
Fellers, Snider, Blankenship, Bailey and Tippens  
100 N. Broadway, Suite 1700  
Oklahoma City, Oklahoma 73102  
Telephone: (405) 232-0621  
Facsimile: (405) 232-9659  
Customer No. 33900